

FINAL

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VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF APRIL 9, 2008

MEMBERS PRESENT:

Kathleen Riedy, Chairman
Rhoda Stephens
Ruth Waitkins
Witt Barlow
Doug Olcott

ALSO PRESENT:

Joseph Sperber, Asst. Bldg. Inspector

The meeting came to order at 8:00 P.M.

Announcement of Fire exists to all in attendance of the meeting.

Kathleen Riedy, ZBA Chairman – Announced the resignation of Ruth Waitkins, ZBA Member. Ms. Riedy stated that Ruth Waitkins has served the Village Board, Planning Board, and Zoning Board for many years and wanted to take this opportunity to thank her for her service. Ms. Riedy further stated that Ms. Waitkins has been diligent, kind, and compassionate in her service to the Boards she has served and the community.

Everyone attending the meeting applauded Mrs. Waitkins with gratitude and thanks.

Ms. Riedy – Stated that Ms. Waitkins will continue to serve as a member of the Zoning Board until a new member is appointed.

Approval of Minutes:

3/12/08 – Barlow – Made Motion to accept the Minutes as corrected.

Stephens – Second the Motion

Vote: 5-0 - In Favor

HEARINGS:

Frederick W. Turner, Esq., Residing at 35 Truesdale Drive, has applied to the Zoning Board of Appeals for an appeal with respect to 45 Truesdale Drive, 79.09-006-037 and a determination that was made by the Village Engineer on July 13, 2007, in which he states that yoga instruction is considered to be a Customary Home Occupation within the meaning of the Village Zoning Code governing Accessory uses Section 230-09(10).

Fredrick Turner – Stated that he was before the Board for an appeal as to whether or not yoga instruction is considered to be a Customary Home Occupation as determined by the Village Engineer in a memo dated 7/13/07.

Turner – I have great admiration and professional respect for the Village Engineer, it is just a matter of disagreement as to what constitutes a Customary Home Occupation. It is not defined in the Village Code. Therefore, under statutory rules we need to look for the plain meaning of the word. Traditionally for a doctor, lawyer, dentist, or music teacher, their clients are visiting one at a time. It is my opinion that this application proposes a commercial instruction in a residential area which is outside of what constitutes a Customary Home Occupation. We must look to the words for meaning. What qualifies as a Customary Home Occupation? I do not believe that yoga is customarily associated with use of property in a residential area in the Village of Croton. We have several facilities in commercial zoning areas where it would be more appropriate and accommodating and there would be adequate parking. The cases I cited in my letter are cases which regulated similar uses for home occupations and also for karate and dance, and found them to be inappropriate and their Code gives a very strict reading. To qualify as a Customary Home Occupation in our Code it must be incidental to the use. I do not believe it is customary to the use of the property. In addition to the interpretation of the use I would like you to also take into consideration what a precedent this would set. There is no limit to the number of people that can attend or number of parking. This precedent could be applied to any home in the village if they hold this up as precedent. This would be significant. The end is limitless if the Board allows this as a Customary Home Occupation. The Code specifically prohibits group activity in groups larger than four in music and dance. I would submit that this very similar activity which is not interpreted in the Code would not be allowed in groups larger than four. This is pure statutory interpretation.

Riedy – Are you referring to Section 230-9(10)(a) of the Village Code? You are speaking about 230-9-(10) (a) Customary Home Occupation, and the limits with respect to the number of students, where an excess of four, is prohibited. But, the Code draws a distinct line between Professional Office and Customary Home Occupation.

Turner – I have found no case that included instruction and I have two cases that would regulate karate and dance.

Riedy – But Village Code does refer to a professional office of a teacher. Can you express your thoughts about that?

Turner – Maybe this is a more appropriate interpretation under that provision. But, this is not the interpretation that the Village Engineer related to in this particular case. So that is not the provision here at issue. I would also like to emphasize that the provisions are not self regulating and there is no way to police this. I would hate to be the one to call Joseph Sperber, Code Enforcement Officer, to investigate these violations, but I would if, it was against the statutory regulations. I think this is more appropriate for commercial application. I happen to be a resident appealing. I think it is in the public's best interest to bring this to the Board's attention. Once this is represented do you consider the decision tonight?

Riedy – The Board has sixty days to make a decision. That decision will be prepared in a "Draft" form and the Board will review it at the next meeting and adopt it at that time.

Stephens – The cases you cited with respect to karate and dance, did they use the same criteria as we have in our Code?

Turner – I do not know. I would be happy to find out for you. Those are all cases that have looked at the proposed uses as Customary Home Occupations and they were rejected.

Stephens – Do you know if there are more than four students at a time?

Turner – I do not know.

Riedy – The homeowners Mr. & Mrs. Brennan are here this evening and I would like to give them a turn to speak and then there may be more questions after they are heard.

Daniel O'Connor – I would like to say that I issued a memo to the Board dated April 4, 2008, that outlines my thoughts with respect to yoga as a Customary Home Occupation. Two or three months ago, Mr. Brennan came to my office and indicated that his wife was interested in teaching yoga from their home and asked me if that would be allowed. I determined that it is a Residential zone and it is an accessory use that can be put in a residential zone. Mr. Turner mentioned the Code that outlines some of those issues. That Code is also broken down into two different categories and Day Care and Bed and Breakfasts were excluded. But, the Code did not exclude anything other than that. The others that were allowed in a residential zone were professional office or studio. There was no distinction made between the two, but teacher could be considered as professional office or studio and there could be an overlap as to how they interact. A Doctor, Lawyer, Teacher, would also be accepted in a residential zone. The Village Board put some restrictions on Customary Home Occupations, but the Code did not exclude any others. The others that are allowed in a residential zone are professional office or studio. There is no distinction between those two words, but teacher would be considered professional office or studio and there would and there could be an overlap between the two as to how they are interpreted. Doctor, Lawyer, Teacher, would also be accepted in a residential Zone.

For a Customary Home Occupation the Village Board put some restrictions for professional office or studio. There is probably a boundary where a use may cross that boundary and that would likely be a commercial use. Certainly professional office or dance studio would not have more than four students at once.

Riedy- It is interesting that the code distinguishes customary home occupation and limits it to an area not exceeding 30% of the total floor area of the main building and with professional office or studio it has no area limit it just indicates no more than four pupils at one time.

O'Connor - ... and no more than one floor of the main building. I do not know why it is written differently, it might depend on how the building was constructed and maybe thirty percent of the total square area or if you wanted to set aside a specific room. I do not know why it is written differently. Maybe it is different for a Doctor or similar profession because they would have to consider handicap accessibility, etc.

Riedy - I would like to nail down one ambiguity in your letter to Mr. Brennan, dated July 13, 2007, where you note a limitation to thirty percent of the area of the main building. Then you state Sub-Section 10, which confirms this. You made a finding that yoga was a customary home occupation and that is supported by your language that says it can be conducted in an area not exceeding thirty percent of the main building.

O'Connor - Yes, and that no more than one or two would be coming over for yoga at one time. Since there was no limitation in the number of individuals allowed and it fell in the range of what the Code intended and there was not going to be eight or ten people over for yoga instructions, which would require some teaching, I looked at it as a Customary Home Occupation.

Reidy - Would you analyze it to be different if someone said they would want to use part of their home for a professional office? Would you be looking at different facts?

O'Connor - Facts with respect to Professional Office and use are in the Code. In that case I would be looking at a different Code Section.

Barlow - How did you come to pick that section of the code?

O'Connor - How it works out in area is slightly different depending on the occupation. Mr. Brennan indicated that one room would be used. Since his family would be in the house I did not see how he could use the entire house. It made sense to me that one room was going to be used and that would occur. I went through a decision making process. Only bed and breakfast's and Day Care were excluded. I debated back and forth, but either category would allow this accessory use.

Olcott - I agree it is a little more appropriate as a Professional Home Occupation. How would you regulate the number of students?

O'Connor – It would be according to the number of complaints. We certainly can't do a compliance evaluation for those uses. Most people would comply, if it was outlined to them. They would not want to put their business in jeopardy of having a violation and having their business shut down. We just do not have time to do regular inspections for this. We also do not do a compliance check on a routine basis.

Mr. Brennan – First I would like to thank Ruth Watkins for her wonderful years of service.

Mr. Brennan – For the record, my wife Doreen Brennan is also present. Mr. Turner gave an eloquent oration, but he did not give any evidence of any heavy traffic jams, complaints from neighbors, and if there were any such complaints he would be the first to complain. But, he can't because it has not happened. We feel we have the right to have a small yoga class. We went to Mr. O'Connor, Village Engineer, and asked for his advice and his professional opinion. According to his advice we went ahead to practice yoga from our home.

Riedy – Describe what this business is and who is giving the instructions.

Brennan – My wife.

Mrs. Brennan – I am a Licensed Massage Therapist, licensed by the State of New York. I have my credentials and license. I am also certified in lymphodema (*sp) for women recovering from breast surgery. I also teach yoga. Teaching two or three people at a time allows me to charge a small amount of money for the classes. I also teach for a support connection. There are one or two people during a class. I work out of the house most of the time.

Riedy – How often do you conduct these classes in your home?

Mrs. Brennan – Once per week and they park on my property. There is no noise and no parking on the road. It is a gentle style of yoga. They are people who are recovering from breast cancer. They do not feel up to going to commercial places. It is a very gentle sacred work that we are doing.

Note to the minutes: Mrs. Brennan submitted copies of her credentials to the Board.

Riedy – How long have you been giving this type of instruction?

Mrs. Brennan – I have been working with lymphodema patients for seven or eight years. It is a disease that women can get if they have had breast surgery.

Riedy – How long are the instructions?

Mrs. Brennan – One hour. Sometimes I will have one in the morning and one in the afternoon.

Riedy – What is the frequency, number of women, and how often do they come?

Mrs. Brennan – This week I had two. One was at 11:00 A.M. and one at 8:00 P.M. One person each time. There is not a huge clientele coming at once.

Riedy – Do you plan on expanding?

Mrs. Brennan – Since I have moved there will be five or six people coming. They will be coming separately and not every day.

Mr. Brennan – My wife also works in different places. I would also like to make a distinction. When I looked at the section of the code it is Section 10(a) and Section 10(b) and one is Customary Home Occupation and then you have Professional Office or Studio. If you look at my wife's credentials she is a teacher and a massage therapist and does yoga mainly with women with cancer. If you look in the Code you will see it specifically mentions teacher with respect to Professional Office. If you look, you will also find that there is no definition as to what a teacher can be. My wife is doing yoga on women for the positive well being of people. Mr. Turner would have you believing that it all started out in the malls. The history of yoga actually shows that it started in ashrams. Yoga is being commercialized, but my wife is not just a yoga teacher. She is a therapist healer. It is low key and passive. There will be no heavy traffic in the area. We feel we fit under professional studio or teacher code. She has had a lifetime of taking classes and has integrated her teaching and yoga with massage therapy. She is accredited by a leading institute and doctors will give testimony for her.

Mrs. Brennan – I also will be teaching.

Mr. Brennan – I firmly believe we fall under code (a) or (b) and would like you to take this into consideration.

Riedy – Any other comments or questions?

Turner – This is the proverbial camel's nose in the tent. There is no knowing where a commercial enterprise like this ends up. Is it teaching? Is it yoga? No matter what the cause or how well intended. I heard Mr. O'Connor, Village Engineer, say that Mr. Brennan came to him and told him the square footage and how many people would be there. Well, I would like to go to the Building Inspector and tell him how tall I am going to build my house, etc. This is precedent for the entire village. This can grow into something that is quite different than what we are talking about tonight and without any

controls. Mr. O'Connor said he would act on complaints. This is wrong. It is not the way it is done that is why there is a Zoning Code.

Riedy - Hypothetically, if Mrs. O'Leary is licensed by the state of New York to teach bongo drumming, then under the terms of our Code, she can have it in her home as long as she has only four people beating on the drums. There are no regulations for the time of day, etc.

Turner - This case is not decided under those criterion. That analysis turns this analysis on its head. This use is prohibited unless allowed. Professional wrestling isn't prohibited, but can I teach professional wrestling.

Riedy - No. You would need to be licensed.

Turner - This turns a residential zone into commercial purposes, unless, it is a customary home occupation. Customary Home Occupations are sewing, doctors and dentists.

Stephens - You do not think this is incidental to a Customary Home Occupation?

Turner - There is no way of knowing if there may be three or five or six people at one time. This is not letting the camels nose in the tent. This is open season on what is permitted under Customary Home Occupation. It is more appropriately a use variance that is all. Thank you.

Stephens - A teacher by definition is someone that imparts knowledge. They do not necessarily need to be licensed by the State. I am talking about a "teacher".

O'Connor - Mr. Brennan came to inquire about a residential use in a residential zone. The code does not have administrative procedures for establishing determination of residential use. The zoning code could have required a special permit for a special use by the Zoning Board of Appeals, but that was done. Bed and Breakfasts and day care are low in number and they are allowed. There are certainly a lot more restrictions and permits needed from the Village Board. Also, The Zoning Board looked at those uses as needing special permits. These are uses allowed by right and Mr. Brennan did not ask for a letter. He voluntarily came in and discussed his accessory use on his property. There is no impropriety or inappropriateness in this case. I simply discussed his accessory use. Certainly with a dentist or doctor's office the clients are coming in more frequently. Again, I would say a veterinary office or studio was prohibited. I guess the Village Board felt it would not be an accessory use, so it was considered as a commercial zone. Teaching yoga and whether it is a customary home occupation I will leave to the Board, but my position is that it is an allowable use in a residential zone.

Riedy - Anyone else like to be heard?

Martin Smolen - 60 Nordica Drive - I just wanted to point out to this Board that this kind of use has been common in our neighborhood. My daughter when little attended violin lessons in a home. Hixon's home on Nordica Drive, had more than four children at the same time and there was no problem. Two doors down from the Rondthaler's it was the same. There is no trouble, I see no issue here.

Riedy - Thank you Mr. Smolen.

Riedy - Anyone else like to be heard?

Mr. Fredrick Turner, requested a refund of his application fee. The Board advised Mr. Turner that the ZBA did not have the authority to grant or deny refunds. Mr. Turner was told that he would need to submit his request to the Village Board.

Hearing Closed.

The Board unanimously agreed to accept the Village Engineer's interpretation that the occupation of yoga & massage therapist/instructor falls under the category of Professional office as "teacher" pursuant to Section 230-9-10(b) of the Village Code.

The Board further agreed that the current owner at 45 Truesdale Drive may continue to operate a business that is incidental to her home use as Yoga & Massage therapist/instructor and as defined in Section 230-9-10(b) of the Village Code, which relates to professional office or studio.

Vote: In Favor - 5-0 - Riedy, Stephens, Watkins, Barlow, Olcott

Lunden/118 Truesdale Dr.

Ms. Riedy, ZBA Chairman - Asked if the applicant Ms. Susan Lunden of 118 Truesdale Drive was present.

Ms. Lunden - Replied "yes".

Riedy - I am an attorney in the Village of Croton-on-Hudson. I represented Mr. Sanchez, who is opposed to this application. It was for a different application and a different owner and Mr. Sanchez opposed the application and I represented him. However, I have reviewed the papers for Ms. Lunden's application and I feel I can consider this matter impartially and reach a decision on the facts and circumstances of this case. If you were to ask me to recuse myself and if you feel you would like to move forward without my participation you may do so and we will move forward with this application and it will not prevent Mr. Sanchez in opposition.

Ms. Riedy - allowed the applicant time to discuss it with her representatives and when the Board calls her application at a later time this evening she can make her decision.

Thomas Tarnowski – 61 Sunset Drive. Located in a RA-5 District and designated on the Tax Maps of the Village as Section 79.05 Block 3 Lot 17. Request for a side yard variance with respect to a proposed addition/dormer.

Mr. Tarnowski – May wife and I moved to Croton on Sunset Drive. It is a small one and one half story home. The Gable runs from left to right and slants down on the back of the house. There is no bathroom upstairs and as we age we think we will be more comfortable with a bathroom upstairs. My wife has knee problems and it is not getting any better. It is difficult to get up and down the stairs. We are asking for a small dormer on the back of the house on the side that faces the driveway. It is 1.3 ft. out of the zoning regulations. We need to build a small dormer to the edge of the roof on the side of the house and to the edge. It can be built in the existing exterior walls. It is the most practical solution from an architect's point of view. There is a dormer with a gable roof in the middle of the back. We will remove one gable, so we will not have two gables. We cannot put it anywhere else because the existing dormer is not quite centered. It is offset by approximately two feet. It would not be feasible to squeeze a bathroom in that small space. The space we have on the other side is the only practical space we have. The infrastructure, furnace, plumbing, etc., is all on that side of the house too. It would also be more practical to run the piping, etc., on that side of the house also.

Riedy – What would your plans be for the exterior?

Tarnowsky – The siding will be the same pattern and color.

Stephens – The new height. How would it compare with your neighbor below, the Laemmel's house?

Tarnowsky – The height of the new dormer would be no higher than the bridge line of the current roof. It would extend to the end of the house in the back. There is a kitchen there now but only on the first floor would we build over that shed roof. It would be about fifty four square feet. Not a large addition.

Tarnowsky – Yes. Bruce Laemmel is the most affected. They only had two questions about the window drawings. We decided to put the windows higher on the wall to the side of the dormer so less of the bathroom area would show and we will have blinds or curtains. The neighbors on both sides and across the street would not even see it, but they have no objection either.

Riedy – What is the exact amount of variance you are requesting?

Tarnowsky – 1.3 ft.

Sperber – That is correct. They are not extending the footprint of the house.

Stephens – Has it always been a 6.7 ft. setback?

Sperber – Yes.

Stephens – When was it originally built?

Sperber – I think it pre-dates.

Riedy – Anyone else like to be heard?

Ed Riely – Truesdale Drive – Stated to the Board that he thought it would be helpful to have the Board Members name plates elevated so they would be more visible and it would be helpful to have documents and drawings submitted with the applications projected on a screen so the audience can see the.

Riedy – Would you like to see the drawings?

Riely – No, I do not live on Sunset.

Riedy – Drawings for applications are always available at the Engineering Dept. and they can be reviewed upon request.

Riedy – Any other comments or questions?

Thomas Johnson – Sunset Drive – I have no objections.

Hearing closed.

Watkins – Made Motion to grant a side yard variance of 1.3 ft. according to plans submitted.

Stephens – Second the Motion
Vote: 5-0 – In Favor - Watkins, Stephens, Riedy, Barlow, Olcott

Frothing Sign Co. on behalf of Key Bank/Simone Development, 420 South Riverside Ave. Located in a C-2 District and designated on the Tax Maps of the Village as 79.17-2-1, has applied to the Zoning Board of Appeals for a variance from Section

230-44(P)(4)(a)(1) which limits signs to one sign per tenant space on the façade facing the street. The applicant further proposes a second sign over a new ATM on the front of the tenant space and a third sign on the façade on the side of the tenant space.

Brian O'Connor, Representative from Frowning Sign on behalf of Key Bank So. Riverside C-2 District. Key Bank is moving to a space in the shopping center that was formerly occupied by a video store. It has two elevations that are visible to the public. One is on the South Riverside Ave. front elevation and the other on the south side facing the supermarket is visible from the parking lot and center, itself. Section 230-44(P)(4)(a)(1) limits one sign per tenant space on the side facing the street. One sign is facing the front street on the front façade and the other on the south elevation and there will be a small sign above an ATM located on the exterior. We appeared before the Planning board and the Visual Environment Board for the signs and both Boards had no objections, but their approvals were conditioned on us getting approval from the Zoning Board. Basically, we are replacing signage that is already there. Another tenant has the same type of elevation and they have two signs on the river side and another facing the south. It is not unique or out of the ordinary for the shopping center. The small sign is part of the ATM. It is just the graphics and part of the identifications of the package. They are closing off a section of the glass and the ATM is built into the wall on the front face of the building which is the east side. It is underneath a canopy.

Discussion followed over plans.

Barlow – It doesn't project out?

O'Connor – No. I also have some photos to show the Board.

Photos submitted to the Board.

Riedy – Marked photos for identification as "A-F".

O'Connor – The photos just show the existing condition and the two stores that have signs. The graphics themselves are basically being installed on the existing sight and being installed onto the acrylic on the sign.

Riedy – Was there an amendment to the site plan? The signage on the alley side is contingent upon the variance.

Sperber - They went to the Planning Board for an amendment to the site plan. Their resolution is conditioned on the ZBA Approval.

Stephens – Read the Resolution.

O'Connor – They requested to adjust the graphics on the sign on the ATM.

Riedy –The sign you show in the application, is that the sign?

O'Connor – No. It will be a little smaller. The panel that is built into the ATM itself is not being adjusted. They just asked that the graphics within the panel be made a little smaller. The bank agreed to it. It was approximately a difference of about an inch in letter height.

Riedy – Anyone else like to be heard.

There was no reply.

Hearing closed.

Stephens – Made Motion to grant the application according to plans submitted and contingent upon and according to the Planning Board and Visual Environment Board approvals and recommendations.

Olcott – Second the Motion

Vote: 5-0 - Stephens, Olcott, Riedy, Waitkins, Barlow

Susan Lunden – 118 Truesdale Drive. Located in a RA-25 District and designated on the Tax Maps of the Village as Section 79.10 Block 1 Lot 3. Request for a side yard variance with respect to a proposed addition.

Lucia Chiocchio, Cuddy & Feder, LLP – I want to thank Madam Chair for your consideration of our application. Although the applications are significantly different we do request you to recuse yourself from this hearing.

Kathleen Riedy, ZBA Chairman - Recused herself and requested Rhoda Stephens to chair the meeting as Acting Chairman for this application.

The Board proceeded with the hearing.

Ms. Lunden – You have plans to the home I hope to live in. It is a plan that is near and dear to my heart. They are for my future home. It is a magical piece of property that I

fell in love with. I also want to become a member of the Croton community. I cannot live in the existing home. It does not have sufficient amount of space. It is 738 sq. ft. The house has deteriorated. It is way beyond superficial fix ups. In the package sent to you it shows the deterioration of that house. The house has deteriorated to such a degree that I cannot live there. It is not big enough and the house is not insulated properly. There is an oil tank in the front yard that makes me nervous. These things can only be corrected by construction. The house has a lot of history and conflict. It abuts the Croton River. There are steep slopes and wetland issues. My neighbors are in close proximity. In the year 2000 an application was denied. This application is different. I have read the Resolution and I feel we have used the Resolution in the planning of this project and we used it in the planning process. I fell in love with the property but there is a building I cannot live in. I brought together a group of professional and fabulous architectural and structural engineers, and landscape architects and we have been working with a lot of people to deal with the issues. It has been a collaborative effort with the Village Engineer and Asst. Bldg. Inspector. I wrote notes to my neighbors saying I was doing construction and wanted to share my plans with them and one neighbor reviewed the plans and she is in support. The neighbor to the north submitted a letter in support of the application. The neighbors to the south I met with. I addressed the fact that my house and the Sanchez's house is close. I feel we have addressed the house issue. I spoke with them and I offered to do landscaping between the two properties. The existing deck will be removed and replaced. I have done my best to meet the feedback that they have given me. We had to prioritize what is most important and that is the fact it abuts the Croton River. It was a balance between the village requirements, community, and the environment. I am excited about the application and feel I have done everything I can to build a home that is respectful to all the issues and the fact it is on the Croton River.

Pat Jones, Architect - We are requesting a side yard variance for an existing non-conforming side yard.

Discussion followed over plans.

The applicants representatives submitted two additional drawings that show the lot and the adjoining neighbors.

Jones - (Referring to Plans) - These plans show the existing building and deck we want to build. Below shows the existing footprint with the outline of the proposed building. These two projections (referring to plans) to the east of the existing footprint are cantilevered. They have no foundation. There will be no new foundations to the east. This design is something I like to do. This maintains as little impact as possible on the environment. Thou we plan to recycle as much of the demolition materials as we can and use salvageable framing, etc. The cladding is deteriorated. In order to use the existing materials we have to build on the original foot print. Any other way would not be cost effective to achieve the building that we would want to have. I do not want to add any more foundation east of this building toward the river. This is why it is cantilevered. It has nine posts that are twelve by twelve foot. Each will be removed and repaired and brought back to its natural state.

The oil tank will be moved into the concrete shed. We will have a new mechanical room inside the house. The shed is built into the foundation on the northeast. Ms. Lunden has agreed to removed the wire fences between the north and south neighbors and replace the existing stockade fence with something more neighbor friendly as well as landscaping, although we plan no major renovation of work there.

Barlow – The shaded area does not include the new deck?

Jones – It shows the shaded area that will be removed from the existing house. These pictures are of the cellar on the first floor. These are the proposed plans. The cellar or crawl space is here (referring to plans) this is the second floor plan and third floor plans. The new foundation is on the north and west and you can see on the cellar plans where the foundation is. You notice the dotted lines above the foundations are projection cantilevered off to the side. The decks are located in the center between the two projections and against the remaining east wall of the existing house. Because of the problems, the Sanchez's had the idea of moving the deck on the first and second floor to the south east corner. I came to the conclusion the privacy of both families is better served by moving the deck in here (referring to plans) screening with one wall with only one window in it. The remainder of the additions are all on the north and west side. Note that on the third floor there is a dotted area round two white square areas (referring to plans) everything dotted is seven feet six inches. Which means it qualifies this story by definition as a one half story even though it is the third floor. Definition is not more than fifty percent of the area between the framing of floor and ceiling. The idea here is to have a gable roof. Are there any other questions about the floor plans?

Everyone replied no.

Jones - The next plan addresses 114, 118, and 120 Tuedsdale Drive. The lines show the views you are looking at. You will notice I drew two lines and one goes from the corner of the sliding door on the Sanchez house on the deck, where his photos are drawn on the 2000 application. I think you can see as far as the river edge is 14 ft. at river. Smack in the middle of that (referring to plans) are pine trees. This is the impact of that five foot projection. There are no windows on the south side of their house. This (referring to plans) is the south elevation of the new house. The heavy outlined section is the section that does not conform to the setback. Any questions about this? You understand the site lines?

The Board unanimously said yes.

Jones – The neighbor to the north has a five foot setback. These drawings are from a surveyors steep slope analysis. The grey is the steeper slope and the lighter gray is the medium slope and the darker gray is the lesser steep slope. Here (referring to plans) is the 120 ft. Wetland Buffer Zone of the Wetlands. This (referring to plans) is the existing footprint with the proposed addition on top. There is an analysis showing the amount of

area disturbed, which is 552 ft. That included the deck and the proposed footing. In this drawing (referring to plans) is what the Sanchez's asked Ms. Lunden to do. I shifted the required twenty feet off the south property line and moved it as far from the steep slope as possible. We had to demolish this (referring to plans) to excavate. The issue for us is, less disturbance. You can see that if we put the house up here (referring to plans) it would be more visible than where it is in its current position. It would be more visible to the Sanchez's.

Lunden - The house sits a floor below grade. I we shifted it we would have to move the house up one story, so the house gets higher and we would have to use more land.

Jones - This here (referring to plans) is street level. There is a tree line that is just about at grade with the existing house.

Barlow - You abandoned the existing foundation so why wouldn't you move it back?

Jones - It is a very steep slope. That is an issue that will be becoming before the Planning board with us. It would raise the percentage of the area disturbed and steep slope. I know the area of disturbance is not your issue here but I want you to know that it is a big part as to why we chose that area to be the best place to build.

Jones - Discussion followed over plans - This is a section to the south end. Truesdale Drive is here (referring to plans). See what I mean by the first level of the floor? This is drawing A-2-1 - Street front elevation on south facing the Sanchez's home. A-2-2 is the North. The elevations show the cottages and height elevations. Part of the height was the stories. The height is measured by the vertical distance in feet and in stories measured from the curb level to the highest level of the roof surface of roofs, the slope of which is not more than one inch vertical to one foot horizontal, or the mean point between the eaves and the highest point of the roof if the roof is of any other type, as found under definitions under height.

Olcott - The existing height is by the same definition?

Jones - The definition is from the average finished grade. That is 23 ft. and 9 inches. The maximum allowed is 35 ft. We are indebted to the Village Engineer and the Asst. Bldg. Inspector for helping us so that we can apply these to the construction and design. There will be three inch insulation and framing. There will be area barriers clad in fiber shingles it will have eco shakes roofing shingles. The mechanical system will be precisely sized which means down sized for this house. If you want we have our preliminary color choices. We sought to design the proposed digging and site disturbances in a responsible way. Mr. Sanchez's view will be minimally impacted toward the river. It will provide privacy and comfort for both the Sanchez's and the Lunden's. Dead and dangerous trees have already been removed and the oil tank will be out of sight. They are fortunate to have this woman as a potential citizen of this town. The current side yard is eight feet and four inches. It will be an 11.9 ft. variance that is requested.

Discussion followed over plans.

Olcott - What will the exterior siding be?

Jones - Cement siding, shingles

Barlow - 11.7 ft. side yard variance. Correct?

Jones - Correct.

Olcott - Did you consider the option of not having it cantilevered out back but on the north side?

Jones - The cantilevered use is much more efficient with minimum problems and disturbance.

Stephens - The condition of the house now?

Jones - Very poor. Did you look at photos?

Stephens - So they cannot live in it in the condition it is now?

Barlow - was it un-inhabitable when purchased?

Lunden - Yes. If you look at the pictures you will see it is covered with plastic.

Jones - Our understanding is the people who lived there did not have the resources to do the renovations that were necessary.

Riedy - Anyone else like to be heard?

Mr. Sanchez & Mrs. Sanchez- 114 Truesdale Drive. We are proud owners of a wonderful piece of land. We formerly grew up in the Bronx. We have wonderful neighbors and there are a couple of letters I would like to share. I also have images and architectural drawings. On my patio looking toward the river I am looking at her existing deck (referring to plans) the previous owner put lattice for screening, because I also have a deck and the owner wanted it private. Even though it (referring to plans) is a small window, if the previous owner wanted lattice for privacy that shows there is no privacy. My image shows what is existing now and this (referring to plans) is what they

are proposing. What I am trying to say is the file is this thick and the first variance that was granted for this property was for a very large deck (referring to plans). The first variance was for that deck (referring to plans). As you see I planted two pine trees for privacy. On Page two - variance number two in 1986 - I found this in a File in the Engineering Dept. This is the survey showing 118 Truesdale Drive. It shows a proposed structure showing thirty four feet wide and sixteen feet deep. It actually goes all the way to the river area. That is the property at 120 Truesdale Dr. To build on 120 Truesdale Dr. the property at 118 Truesdale Dr. was reduced by twelve and one half feet. The owner agreed to sell a strip so they could build. From the dead end sign to the end, everyone has trees all around with wide space. This lot happens to be the runt of the area because that piece of that area that was granted and sold off. Number 3 - There was a variance granted to build a shed. With all the property on the north side, why did they build five feet from the south property line with so much property on the north?

Barlow - Does this shed pose a problem for you?

Sanchez - No. Just the proximity. Eight feet is very close. I have no problem with that shed at all. Page -4 - The applicant wanted to double the size of their house. Looking from the house is not that obtrusive from the street. It was simply for the variance at that time. An issue at that meeting was we did not go by the average curb from the front and the back. From that level to the top was thirty nine feet. We are forty one feet distance based on their drawings. She is taking it from the front. It is buried and hidden in that slope. Mr. Larsen at 108 Truesdale, who did not attend this evening, but I have a letter from him. I value his opinion tremendously and he had comments and I submitted his letter to you. On page 5 - this applicant is seeking a variance to expand his house 340 percent. In 2000 the applicant only wanted to double it now we are more than tripling the size of the house. I took a ruler and this new footing that the architect just said will be reconstructed, if you look at drawing 2-1 of theirs, she has twenty feet and three inches to the edge of the cantilever. This is different. I took a tape measure from here (referring to plans) to the new footings. Based on my drawing it is going almost another five feet towards the river.

Barlow - The architect represented that the existing foundation line will not be extended. If it does not go beyond the existing foundation line, would you agree to that?

Discussion followed over plans.

Mrs. Sanchez - If it stays as it is now, fine. I can't see how one minute they say they are not going to disturb the slope and the next minute they are putting footings.

Barlow - If it is possible to do it without any further disturbance of the slope, do you agree?

Mrs. Sanchez - Yes.

Mr. Sanchez - Number 5 - Is a very steep location. Rain water comes down. You can't plant. All the leader and gutters go into that spot (referring to plans). If you look at picture number 5, there are a couple of boulders. Those are humongous. They are mostly on my property. That is how close we are talking. If there is going to be construction in this area, I would just as soon they leave this area alone. Page -6 - I was amazed when I was told the top floor here (referring to plans) is one half story. You go down to the second floor and it is amazing where this is considered a second story where it has more habitable space than there (referring to plans). I read it forwards and backwards and to me this is a full story. One more point, another one of my neighbors, as I showed you the front view, it is obscured you cannot see it from road. In the back this is a big house though a lot of people go walking by Truesdale for walks, kyacking, canoeing and boating. One of my neighbors, Mr. Kane, does fishing and has concerns about this. We have had a lot of problems on this site for many years and if a lot of money is being spent let them do it right. Mr. Kane, just to let you know, is people who use this river a lot. A lot of people use this river and sometimes it is too crowded. Page - 6 shows how it will create to me a boxed in affect. I now have open space and above and below (referring to plans).

Discussion followed over plans.

Sanchez - This was meant for a summer bungalow. From what I am hearing, what they are planning to do, this will be a tear-down. Just do it right and conform to the current code.

Barlow - Mr. Sanchez, how big is you house?

Sanchez - 1,625 square feet, it is two stories.

Jones - The existing deck is off the first level down here (referring to plans) not up here.

Barlow - How far does it project?

Lunden - 11 ft. x 26 ft.

Barlow - Your cantilever is five feet farther out?

Jones - Mr. Sanchez gave a perfect view picture - (referring to picture) that lattice is about ten feet from the face of the house. Our project is about half that. The erosion is something we will deal with because we are in a wetland area and steep slope. We will put in a ten year zone to take care of these issues. That is for the Planning Board not here. The shed as the Resolution states, allows it to be five feet from the property line and also the code restrictions allow five feet.

Stephens – It is a permanent structure but moveable.

Jones – Yes. But, we don't intend to move it.

Jones – With respect to the proposed house, if anyone were to build a larger house the footings would have to be repaired. There are no footings on parts of those piers now. We are not going out any further than the existing building. The third floor will conform to every height and story requirement. Mr. Sanchez does not understand the definitions as they are offered in the code. We will be able to screen in that area with heavier vines and fences and use landscape to do that.

Carolyn *** - 10 Nordica – I have reviewed the plans that the applicant has prepared. I think she did an extraordinary job of gathering professionals to design within all of the requirements you have asked.

Pat Riely – 110 Truesdale Drive – I think various rules are made for a reason and think we should stick to the books. I think the house is too big and too close. We were against it when the contemporary home next door to it went up.

Stephens – How does this application compare in size the house at 120 Truesdale Dr.

Jones – It is significantly smaller. You can see just in the footprint in comparing ours to the Sanchez's house and the house at 120 Truesdale.

Stephens – Have you been to the Planning Board yet?

Discussion followed over plans.

Sanchez – A few weeks ago they had an incident where a large branch came down and they have to remove it. It does not affect me but they need to take care of it. It is unfairly situated. Every house on the block is more or less equally situated. This is the only one that is so close.

Mrs. Sanchez. – Even though there will be landscaping and even though it will be a beautifully preserved space, there is still a presence of a building there, that is really too close. This is a beautiful town and what attracted me here was when I came over the high way and saw the river and all you see is river. If you are going to improve a house, just like we did when we tore our little cottage down, we respected the twenty foot setback that was required, so we moved it over so our neighbor could have space between us and her. I feel others should do the same. Laws are always changing and people don't like change. There is an ability to do that with the technology that we have. They should respect the twenty foot setback.

Barlow - You said you built your house in the existing location which is towards the road.

Ms. Sanchez - Yes. We wanted more yard.

Ed Riely - 110 Truesdale Drive - Adjacent to the Sanchez house is the gigantic house that the last Zoning Board screwed up big time. That is the house that is adjacent to theirs. It is built on a corner where the river splits. It is a gigantic house and then their house was built forward and above looking down the river. It has a 180 degree river view and Mr. Sanchez house is built back and our house is built forward. There is a point to be made, when you purchase a house you cannot bank on getting a zoning variance. The people who lived in the house made modest changes. That house is not in great shape. The footings are not in great shape. The deck was not put up properly. They had five meetings in this same room with some of the same people. We have fought over what has gone on in the Croton River. It has been fought by seven different authorities and seven different police forces, New Castle, Ossining, etc., and no one accepts responsibilities with the tremendous erosion problems on our side of the river. We have fought over this for the last three years over the control of that river and you are one of the authorities that have control over that river and now you are ready to give a variance? If you use Mr. Sanchez's photo on page 4 - the shed and the tank in the front yard is not your problem. It is ours. Who would have a tank in the front yard?

Stephens - That is not before us.

Riely - On page 4 - you can see they have twelve feet to come down the road and more space toward the gigantic house. How does it affect us? I care about this selfishly. Our house is set forwards at the same level as this house. When I look out, my level window I see the fork in the river and Fireman's Island. We have a 180 degree view. If this house is built it will affect our view. Their house was built of sand stone so whatever footings they put in there they will have to put a lot of truck loads in there. I want some answers here. Maybe the architect can verify this fact. I would like to know where the present wall of your house is.

Jones - (Referring to plans) - Right here. It is five feet back.

Discussion over plans.

Riely - We have lived with these conditions for fifty years. For the last three years we have been fighting over the Croton River and have watched every agency blame the other whether it be the Police, Fire Dept., or the elected officials trying to put the arm on the state. Streams go into our property from the road. This house is in terrible shape. I have seen three contractors come in with deck and footings and screwed things up. This house has plenty of room to be expanded without a variance and without jeopardizing what I have fought so hard to protect. When I sit outside I get a 180 degree view. When you put in those plans the view will be cut in half.

Architect for Susan Lunden – There was a submission by Mr. Sanchez's Attorney. What I am handing you is a response based on what is already in the record. Why we think the design meets the criteria for area variance. What we are trying to show is we are trying to improve the premises. It has been established that it is deteriorated and someone wants to make this a livable house consistent with the other houses in the community. The applicant is not looking to maximize the space. It is not a tear down. Let's ask, is there another alternative? The impact would be three times greater. Is the variance substantial? It really isn't. This house has been here eight feet from the property line. The applicant is only trying to turn this property into livable space.

The hearing closed.

Olcott – Made Motion to grant a 11.7 ft. side yard variance according to plans submitted.

Stephens – Second the Motion

Vote: 4-1 – In favor – Olcott, Stephens, Watkins, Barlow
Recused – Riedy

Respectfully submitted,

Janice Fuentes
ZBA Secretary
4/9/08

FINAL

RESOLUTION

Thomas Tarnowsky, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard variance with respect to a proposed addition/dormer.

The property, at 61 Sunset Drive, is located in RA-5, District and is designated on the Tax Maps of the Village as Section 79.05 Block 3 Lot 17.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

There were no objections from the neighbors.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Waikins – Made Motion to grant a side yard variance of 1.3 ft. according to plans submitted.

Stephens – Second the Motion

Vote: 5-0 – In Favor - Waikins, Stephens, Riedy, Barlow, Olcott

4/9/08

According to Section 230-164 (E)), "Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

FINAL

RESOLUTION

Susan Lunden, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard variance with respect to a proposed addition.

The property, at 118 Truesdale Drive, is located in a RA-25, District and is designated on the Tax Maps of the Village as Section 79.10 Block 1 Lot 3.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

The architect has diligently taken into consideration the environmental issues and neighbors concerns.

The neighbor against the application made a decision to site his own house where it is located today.

The Board does not find 2,500 sq. ft. to be a large house especially on three floors.

The variance is substantial but there would be a much greater impact to the environment and neighbors if the location of the house were to be moved.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Olcott – Made Motion to grant a 11.7 ft. side yard variance according to plans submitted.

Stephens – Second the Motion

Vote: 4-1 – In favor – Olcott, Stephens, Waitkins, Barlow

Recused – Riedy

4/9/08

According to Section 230-164 (E), "Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

FINAL

RESOLUTION

Simone Development /Key Bank has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a variance from Section 230-44(P)(4)(a)(1) which limits signs to one sign per tenant space on the facade facing the street. The applicant further proposes a second sign over a new ATM on the front of the tenant space and a third sign on the facade on the side of the tenant space.

The property, at 420 So Riverside Ave., is located in C-2, District and is designated on the Tax Maps of the Village as Section 79.17 Block 2 Lot 1.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

There were no objections from the neighbors.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Stephens – Made Motion to grant the application according to plans submitted and contingent upon and according to the Planning Board and Visual Environment Board approvals and recommendations.

Olcott – Second the Motion

Vote: 5-0 - Stephens, Olcott, Riedy, Watkins, Barlow

4/9/08

According to Section 230-164 (E)), “Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

FINAL

RESOLUTION

Fredrick W. Turner, Esq., residing at 35 Truesdale Drive has applied to the Zoning Board of Appeals of the Village of Croton-on-Hudson, for an appeal with respect to 45 Truesdale Drive (Section 79.09-6-37) and a determination that was made by the Village Engineer on July 13, 2007, in which he states that yoga instruction is considered to be a customary home occupation within the meaning of the Village Code governing Accessory Uses (Section 230-09(10)).

The property, at 45 Truesdale Dr., is located in a RA-9, District and is designated on the Tax Maps of the Village as Section 79.09-6-37.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

The occupation as Yoga & massage therapist falls under the category of Professional office as a "teacher" pursuant to Section 230-9 (10) (b) of the Village Code.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals made the following determination and decision:

The Board unanimously agrees to accept the Village Engineer's interpretation that the occupation of yoga & massage therapist/instructor falls under the category of Professional Office as "teacher" pursuant to Section 230-9(10)(b) of the Village Code.

The Board further agrees that the current owner at 45 Truesdale Drive may continue to operate a business that is incidental to her home use as Yoga & Massage therapist/instructor and as defined in Section 230-9-10(b) of the Village Code, which relates to professional office or studio.

Vote: In Favor - 5-0 – Riedy, Stephens, Watkins, Barlow, Olcott

4/9/08

Draft filed: 4/23/08

Final Approval: 5/14/08